

## REMARKS

Claims 1 and 3-22 were pending in this application. Claims 3-9, 11, 12, 14, 17, and 19-21 have been amended. Claims 1 and 10 have been cancelled. Claims 23 and 24 have been added. No new matter has been added.

## ARGUMENTS

Applicant has amended the claims to address the rejections under 35 U.S.C. Section 112, second paragraph.

The claims have been rejected as being anticipated by or, alternatively, unpatentable in view of Morrish et al. ("Morrish"). The Morrish clip is designed and intended to attach to a rod, e.g., a clothes hanger cross-brace (col. 5, lines 5-6), the rod being substantially solid and nondeformable. The springlet 36 has limbs 37, the spacing between which remains substantially fixed (col. 5, lines 41-43), other than that the arms can open slightly to accommodate the rod and spring-fits about the rod, yet the clip can be moved along the rod as needed (col. 5, lines 13-15, 20-23). The limbs 37 are not designed nor is there any mechanism for the user to move the limbs 37 toward each other to clamp and deform a tube. The jaws 12 are able to pivot inward to pinch (via the nip 35 an article of clothing between them. In contrast, Claim 1 does not provide a clip which pinches in this manner. The clip as presently claimed clamps a body passageway, e.g., a blood vessel, by pivoting the first and second arms on either side of the vessel toward the third gripping surface (i.e., the reaction surface) in a "bypass" manner; i.e., the contacting more resembles so-called bypass shears, which have arms which are parallel, but not in the same plane. In an exemplary embodiment of the present invention the arms "bypass" the third contact surface as all three contact surfaces are in different planes (though connected to the base member, which is substantially in one plane).

Viewed from another standpoint, Morrish teaches away from the present invention because it teaches a clip with limbs 37 that only expand from an initial orientation, not close. Furthermore, Morrish teaches away from the present invention because Morrish intends to grasp the rod such that the clip can move "Because of the grip of the springlet on the bar the clip does not slide along the bar unintended but can be slid by pushing it along and it is held in a desired

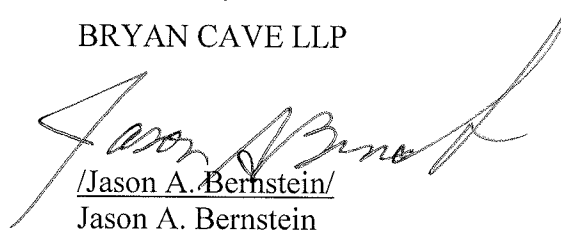
orientation on the bar” (col. 5, lines 20-23). In contrast, the clip of the present invention is designed and intended to substantially prevent movement of the clip along the blood vessel when engaged. Movement while the clip is engaged may cause tearing, rupturing or other trauma to the vessel surface by the projections 10 which could lead to blood or other body fluid escaping from the vessel, which could cause major injury to a patient. Movement of the clip would be by disengaging the clip and repositioning it. It would not have been obvious to adapt the Morrish clip to produce the clip of the present invention as the limbs 37 could not clamp a blood vessel so as to occlude fluid flow therethrough. Therefore, Morrish clip would not only be incapable of performing this function, but its teachings would be deleterious if used. As such, Morrish neither anticipates nor renders obvious the presently claimed invention.

### CONCLUSION

Applicant submits that the patent application is in condition for allowance and respectfully requests such action. If the Examiner has any questions that can be answered by telephone, please contact the undersigned attorney of record at the telephone number listed below.

Respectfully submitted,

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